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International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail, of 10 January 1952

International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail, of 10 January 1952 and a draft of a new convention on the facilitation of border crossing procedures for passengers, luggage and load–luggage carried in international traffic by rail

Submitted by the Organisation for Cooperation between Railways

Introduction

1. It is recalled that the Working Party on Customs Questions affecting Transport (WP.30) at is previous session considered the first draft of the Convention (ECE/TRANS/WP.30/2015/22) and invited delegations to submit their comments and views on it.

2. The Working Party further mandated the secretariat to prepare, in cooperation with the Organization for Cooperation between Railways (OSJD), the informal group and interested delegations, a paper containing a comparative analysis of the new convention and other relevant legal instruments, in order to facilitate considerations of the draft text of the new convention at its next session (such comparison is provided in the document ECE/TRANS/WP.30/2016/6).

3. Delegates are informed that in the light of comments made at the 141st session of WP.30 the draft Convention has been revised and was presented and considered at the sixty-ninth session of the United Nations Economic Commission for Europe (UNECE) Working Party on Rail Transport (SC.2) on 23–25 November 2015. The comments on the convention submitted to the SC.2 were published as Informal Documents and interested

delegates could consult them (their list is reproduced in the document ECE/TRANS/WP.30/2016/6).

4. SC.2 thanked the informal group for the work done and for the high quality of the prepared draft, requested interested delegations to analyse existing bilateral country agreements in the area of passengers and luggage carried by international traffic by rail which are related to a new suggested Convention and invited delegations to submit their comments on the Convention (for more details please see ECE/TRANS/SC.2/224, paras. 35–38).

5. The requested comparative analysis of the new convention with legal instruments and with bilateral agreements was published as document ECE/TRANS/WP.30/2016/6.

6. The current document contains the new draft of the new Convention prepared on the basis of comments made at WP.30 (141st session) and at SC.2 (sixty-ninth session).

7. The document is provided by OSJD and is reproduced in the form and language as received by the secretariat.

Annex

Convention to facilitate the crossing of borders in international railway transport of passengers, luggage, and baggage cargo

States participating to the present Convention, hereinafter referred to as the Parties,

Recognizing the need to facilitate and expedite the crossing of borders in international rail transport of passengers, luggage, and baggage cargo, while maintaining the effectiveness of State control,

Given the importance of the safety, convenience, comfort and high quality of passenger service,

Noting the importance of reducing the trains running time to increase the competitiveness of rail transport,

Have agreed as follows:

Chapter 1
General provisions

Article 1

For the purposes of this Convention, the following basic concepts are used:

(a) "Baggage" means things (objects) of the passenger taken by the carrier for transportation in the baggage car of a passenger train;

(b) "Rail transport infrastructure" (hereinafter infrastructure) means technological complex, including railways and other constructions, railway stations, power supply devices, communication networks, signaling systems, centralization and blocking systems, information complexes and traffic control system and other systems ensuring the operation of this complex of buildings, constructions, installations, devices and equipment;

(c) "International railway traffic" means railway transportation of passengers, luggage and baggage cargo, carried out between two or more railway stations situated in the territories of different States, as well as transportation between the stations of one State through the territory of other State(s)

(d) "Passenger" is a person who makes a journey by train on a valid travel document (ticket) or having a travel document (ticket) and boarding or disembarking at the station territory, including passenger platform directly before travel, or immediately thereafter;

(e) "Carrier" means a legal person who enters with the passenger (sender) into a contract of carriage pursuant to which he undertakes to deliver a passenger, a given by sender luggage and baggage cargo from origin to destination;

(f) "Railway checkpoint" means a railway station, where carrying out of State control is provided, as well as a specially selected in the immediate vicinity of the border stretch of terrain where the passing across the border is carried out;

(g) "Carry-on baggage" means passenger belongings carried by the passenger with him in the car without payment and not exceeding the weight and dimensions of the established norms, their safety relies on the passenger;

(h) "Cargo" means items taken by the carrier from the person or entity in accordance with the established by the legislation of the Parties order to be carried in the baggage car of a passenger train;

(i) "Infrastructure manager" is the organization authorized in accordance with the legislation of the Parties to provide services to the legal or natural persons for the use of infrastructure;

(j) "Staff" is the accompanying train group of employees of the carrier, or other organizations engaged in passenger service on the route, not being a part of the train crew;

(k) "Special control" - veterinary, sanitary and quarantine, phytosanitary and other types of State control, requiring the use of particular forms and methods of their realization.

Article 2

This Convention regulates the following issues:

(a) Organization of cooperation of the Parties and coordination of the work of bodies of State control on the facilitation of border crossing in international rail traffic;

(b) Definition of a set of measures to harmonize the conditions for State control, documentation requirements under the State control and State control procedures;

(c) Improving the efficiency of the rail crossing checkpoints and reducing the time of the State border control;

(d) Organization of coordinated work of representatives of border, customs and other State bodies that execute state control on the borders, and control of carriers of the Parties.

Article 3

1. To achieve the objectives of this Convention and practice its application mechanisms the parties shall endeavor to conclude bilateral agreements supplementing and/or clarifying its provisions.

2. The terms and conditions of bilateral agreements cannot be contrary to the provisions of this Convention.

3. The provisions of this Convention shall not prevent the application of larger simplifications that Parties grant or may wish to grant either by unilateral provisions or by virtue of bilateral or multilateral agreements provided that such simplifications do not impede the application of the provisions of this Convention.

Article 4

1. The Parties shall cooperate in order to ensure the most complete uniformity of documentation requirements or procedures in all areas related to international railway operations.

2. The Parties shall endeavor to use international standards, new technologies in the field of railway transport, in particular, the technology of automatic change of width of the wheel span depending on the gauge used, and best practices to improve the performance of rail crossing checkpoints and facilitate ongoing procedures in all areas connected with the international railway operations.

3. The Parties shall exchange practical achievements to improve the efficiency of the rail crossing checkpoints and reduce the time for State border control.

Article 5

1. When crossing the Parties' borders the Parties can carry out the following types of State control:

(a) border control;

(b) customs control;

(c) other established by the legislation of the Parties types of State control.

2. State control may be carried out at the following locations:

(a) At railway border crossing/entry checkpoints, including interchanging cars or when car's trucks change the width automatically when changing the gauge;

(b) In the train during its journey between the Parties' railway checkpoints;

(c) Partly at the railway border crossing checkpoint, partly during the train running.

Article 6

Bodies of State control of the Parties carry out concerted action to control documents of passengers and their carry-on baggage, luggage, as well as baggage cargo.

State control points, way, manner, appearance, standards for the timing of the State control, passenger data to be transferred to bodies of State control, are determined by the legislation of the Parties and individual bilateral or multilateral agreements.

The Parties may agree on the non-stop movement of the international passenger train over the railway checkpoints.

Article 7

1. When conducting the State control, the Parties shall take measures to prevent violations of the traffic schedule.

2. The infrastructure manager shall promptly inform the bodies of State control of the Parties about the train schedule and its changes, schemes of composition of international passenger trains, as well as about cancelation and (or) allocation of trains.

3. The Parties shall ensure the execution of the established by the legislation of the Parties and by individual bilateral or multilateral agreements time standards for State control, seeking to reduce these time standards through simplification and improvement of methods, technologies and technical means of State control.

Article 8

Parties when dealing with each other shall seek to reduce the use of paper documents and simplify paperwork procedures, using the electronic data interchange system for information exchange in volumes in accordance with the legislation of the Parties and bilateral or multilateral agreements.

Chapter 2
The border crossing by employees of train crews, State control officers and staff in international rail transport

Article 9

Authorized officers of the State control bodies shall be exempt from compliance with Passport and visa procedures for international rail traffic in the framework of State control execution. Providing their official documents for the right of carrying out State control shall be considered sufficient for the verification of their credentials, position and authority.

Article 10

1. The Parties shall endeavor to facilitate the procedures for issuing visas and border crossing procedures for the Parties train crews' employees and staff.

2. In accordance with the separate bilateral agreements the competent authorities of the Parties may agree on border-crossing by train crews' employees and staff in international rail transport in accordance with agreed personal lists or other means.

Chapter 3
Organization of State control

Article 11

For an orderly and accelerated passing of State control, the Parties shall endeavor to comply with the following minimum requirements for rail checkpoints, open to international passenger transport:

(a) presence of buildings (premises), installations, equipment and technical means enabling at rail checkpoints to carry out daily round-the-clock State control;

(b) infrastructure of rail checkpoints and adjacent tracks must facilitate State control without disturbing the traffic schedule;

(c) the availability of equipment, devices, information technology and communications systems that allow the exchange of preliminary information, including on passenger trains arriving to railway checkpoints;

(d) presence at railway checkpoints of required number of skilled personnel from carriers, border, customs and other State bodies in view of the volume of traffic.

Article 12

In order to confirm their authority the State control officials must wear uniforms and (or) insignia, established by the legislation of the Parties.

Chapter 4
The conduct of State control

Article 13

1. Information on passengers, luggage, and baggage cargo crossing the border is transmitted by the carriers to bodies of State control (including electronically) well in advance (in accordance with technological features).

2. If the information contains secrets protected by the legislation of a Party (governmental, commercial, banking and (or) other), persons involved in the international traffic take upon themselves obligations of non-disclosure of such information to third parties without the written consent of the person who owns or has rights to use and dispose of such information.

3. The public authorities of the Parties shall exchange information among themselves in order to enhance the effectiveness of State control and early selection of forms of State control.

Article 14

1. The parties must negotiate the place (s) of carrying out of State control by concluding separate bilateral or multilateral agreements.

2. State control may be carried out jointly by the parties' State control bodies.

3. State control may be carried out both on the territory of a Party and the train during its journey between the railway checkpoints of the Parties in accordance with the provisions of this Convention.

When the State control on the territory of one Party is performed by the other Party's bodies of State control the questions of administrative and criminal liability shall be subject to separate bilateral agreements.

Article 15

1. Regardless of the method of carrying out State control if it does not require the use of special forms and methods of control, State control is carried out directly in the cars of the train.

2. Passengers must not leave their places in accordance with the travel document (ticket) until the end of State control procedures.

3. Where necessary, the use of special forms and methods of control established by the legislation of the Parties, may be carried out in specially designated and equipped premises at railway checkpoints and (or) in cars.

Article 16

1. State control during train journey between the railway checkpoints of the Parties shall be held sequentially by bodies of State control of the Party of exit, then by bodies of State control of the Party of entrance, in accordance with the separate bilateral or multilateral agreements between the Parties.

2. Separate bilateral agreements may provide for the possibility of presence of controlling authorities of one Party in the territory of the other Party.

3. In the absence of a separate agreement on another sequence of State control on the territory of a Party the following order shall be applied:

(a) border control executed by the bodies of State control of the Party of exit;

(b) Customs and other checks carried out by the bodies of State control of the Party of exit;

(c) border control carried out by the bodies of State control of the Party of entrance;

(d) Customs and other checks carried out by the bodies of State control of the Party of entrance.

4. If there is a separate agreement on consecutive State control on the territory of one Party the following order shall be applied.

(a) Border control carried out by the bodies of State control consecutively of the Party of exit then of the Party of entrance;

(b) Customs and other checks carried out by the bodies of State control consecutively of the Party of exit then of the Party of entrance.

5. Bodies of State control of the Party of entrance carry out State control only in those parts of the train, where the State control by bodies of State control of the Party of exit has been already accomplished.

Article 17

1. The Parties shall endeavor to reduce the time standards to perform technological operations on the admission of trains at railway border checkpoints by optimizing operations, introducing modern technologies and their continuous improvement.

2. The Parties shall carry out registration of delayed trains or cars at railway checkpoints and transmit this information to the Parties involved which conduct further analysis and propose measures to reduce downtime.

Article 18

1. The competent bodies authorized in accordance with the legislation of the Parties, on the basis of separate agreements define the rail checkpoints near the border or inside of one Party in the territory of which State control is carried out.

2. In all cases where such rail checkpoints are defined, separate agreements specify a zone in which State control officials of the Parties have the right to inspect passengers crossing the border in either direction, their carry-on baggage, luggage, as well as baggage cargo.

3. State control officials of the Parties have the right to inspect passengers in a zone which typically include:

(a) Buildings, constructions and platforms attributable to rail checkpoint;

(b) Passenger trains.

Article 19

The Parties shall endeavor to arrange for State control on the route of a passenger train, especially in the following cases:

(a) When the duration of non-stop run of such trains before and after the railway checkpoint of each adjacent Party is sufficient for carrying out State control procedures;

(b) When carrying out international traffic of passenger trains with automatic resizing of trucks depending on the gauge;

(c) When using high-speed rolling stock.

Article 20

The Parties shall endeavor to arrange for state control partly being executed at railway border checkpoint, and partly in the route of a passenger train in cases where the duration of non-stop run of train before or after the railway checkpoint is sufficient for carrying out State control on the territory of only one Party.

Chapter 5
Final provisions

Article 21

1. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

2. This Convention shall enter into force immediately after the deposit of the third instrument of ratification to the Secretary-General.

3. After the entry into force this Convention shall be open for accession by any State which has not signed the Convention.

4. The instruments of accession shall be deposited with the Secretary-General of the United Nations, who shall notify about their receipt all other Parties.

5. For each State which becomes a Party to this Convention after the date of deposit of the third instrument of ratification, the present Convention shall enter into force on the ninetieth day after the deposit of the instrument of accession on behalf of the State.

Article 22

A regional economic integration organization constituted by sovereign States and having competence over certain matters governed by this Convention may similarly sign, ratify or accede to this Convention.

In this case, the regional economic integration organization shall have the rights and obligations of a Party to the extent that that organization has competence over matters governed by this Convention. In cases where the number of Parties has significance for this Convention, the regional economic integration organization shall not count as a Party, in addition to its Member States which are Parties.

Article 23

1. Any Party to this Convention may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall thereupon communicate the proposed amendment to the Parties with a request that they indicate whether they favor a Conference of the Parties for the purpose of considering and voting upon the proposals.

3. At the request of not less than one third of the Parties to this Convention, the Secretary-General of the United Nations shall convene the Conference of the Parties to amend it.

4. An amendment to this Convention shall enter into force for all Parties to this Convention which have accepted it, upon the deposit with the Secretary-General of the United Nations the instruments of acceptance of the amendment by a majority of the Parties. Subsequently, it will enter into force for any remaining Party on the day of depositing to the Secretary-General of the United Nations of its instrument of accession.

5. It is believed that any instrument of ratification and accession deposited after the entry into force of an amendment to this Convention shall apply to the Convention as amended.

Article 24

1. Any disputes concerning the interpretation or application of this Convention between the Parties, which within a reasonable time cannot be resolved through negotiations and consultations, with the express consent of all the Parties involved in the dispute shall be submitted to the Arbitration Board.

2. Each of the Parties to the dispute shall designate to the Arbitration Board one arbitrator within one month from the date on which the Parties agreed to submit the dispute to the Arbitration Board. The Chairman of the Arbitration Board shall be appointed by the Secretary-General of the United Nations.

3. The Arbitration Board shall decide by a majority vote. In the event of a tie, the vote of the Chairman of the Arbitration Commission is crucial.

4. The decision of the Arbitration Board is binding on the disputing parties.

Article 25

1. This Convention may be denounced by so notifying by the Party concerned of the Secretary-General of the United Nations, which, in turn, shall notify the other Parties. After expiration of the six-month period from the date of receipt of such notification by the Secretary-General of the United Nations Convention loses its legal force in relation to the Party which has denounced it.

2. If, after the entry into force of this Convention, the number of Parties is reduced, as a result of denunciations, to less than three, this Convention shall cease to have effect from the date on which the last of such denunciations takes effect.

Article 26

1. This Convention, texts of which in _____, _____ and _____ languages being equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall transmit certified copies of it to the signatory or acceding States.

2. After the entry into force of this Convention, the Secretary-General of the United Nations registers it in accordance with article 102 of the Charter of the United Nations.

In witness thereof, the undersigned plenipotentiaries, being duly authorized by their respective Governments, have signed this Convention.

Done in _____ in _____ instances, on _____ (date).